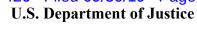
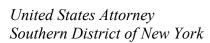
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The Silvio J. Mollo Building One Saint Andrew's Plaza New York, New York 10007

September 30, 2019

## **BY ECF**

Honorable J. Paul Oetken United States District Judge Thurgood Marshall United States Courthouse 40 Foley Square New York, New York 10007

> Re: <u>United States v. David Britt</u>, 18 Cr. 36 (JPO)

Dear Judge Oetken:

The Government writes with regard to the requests to charge in this case. The Government respectfully requests that the Court use substantially the same charges used in connection with the trial of David Middendorf and Jeffrey Wada, with the addition of a materiality instruction on wire fraud. In advance of the trial of Middendorf and Wada, the Government argued that "willfulness" was not an element of the charged offenses. Although the Government wishes to preserve that argument for the record, it recognizes that the Court has already rejected its position.

Respectfully submitted,

GEOFFREY S. BERMAN United States Attorney

by: /s/
Martin Bell/Jordan Estes/Margaret Graham
Assistant United States Attorneys

(212) 637-2463/2543/2923

cc: Counsel of Record (by ECF)